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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/852,775	05/10/2001	Rabindranath Dutta	AUS920010433US1	5097

7590 07/01/2004

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EXAMINER

TANG, KUO LIANG J

ART UNIT	PAPER NUMBER
2122	

DATE MAILED: 07/01/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/852,775

Applicant(s)

DUTTA ET AL.

Examiner

Kuo-Liang J Tang

Art Unit

2122

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 May 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

1. This Office Action is in response to the application filed on 5/10/2001.

Claims 1-29 are pending and have been examined.

The priority date for this application is 5/10/2001.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 1 recites the limitation "said user" in page 17, line 8, 10-11, 14. There is insufficient antecedent basis for this limitation in the claim. The Examiner is interpreting this limitation as "a user"

Claim 12 recites the limitation "said user" in page 19, line 19, 22-23, 27. There is insufficient antecedent basis for this limitation in the claim. The Examiner is interpreting this limitation as "a user"

Claim 23 recites the limitation "said user" in page 21, line 32; page 22, line 3, 8. There is insufficient antecedent basis for this limitation in the claim. The Examiner is interpreting this limitation as "a user"

Regarding Claims 2, 4, 13, 15, 24 and 26, the phrase "more favorable " renders the claim(s) indefinite because the claim(s) include(s) elements not actually disclosed (those encompassed by "or the like"), thereby rendering the scope of the claim(s) unascertainable. See MPEP § 2173.05(d).

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Regarding Claims 7, 18 and 28, the phrase "favorable total" renders the claim(s) indefinite because the claim(s) include(s) elements not actually disclosed (those encompassed by "or the like"), thereby rendering the scope of the claim(s) unascertainable. See MPEP § 2173.05(d).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-7, 12-18 and 23-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over D'Alessandro US Patent No. 6,556,974 in view of Hameluck et al. US Patent No. 6,237,138 (hereinafter Hameluck).

As per Claim 1, D'Alessandro teaches that a system for providing accurate, quantifiable and reproducible assessments of an organization's performance based on predetermined criteria. It relates to a remotely accessible system for the collection of employee or non-employee survey responses to quantify various criteria relating to the operation of an organization. (E.g. see Abstract and associated text). In that D'Alessandro discloses the method that covering the steps of:

“displaying a questionnaire regarding test results of said user, said questionnaire being designed to enable said user to input a predetermined number of possible answers;” (E.g. see FIG. 3 and associated text);

“receiving answers to said questionnaire from said user; assigning a quantitative value to each of said possible answers (E.g. see FIG. 3, second question, answer “Rarely Agree (20%)” and associated text) to provide a quantitative score for each question on said questionnaire;” and

“automatically evaluating said quantitative score for each of said questions to provide an indication of acceptability of said upgrade version.” (E.g. see FIG.5 and associated text).

D'Alessandro doesn't explicitly disclose a user to test an upgrade version of a base application. However, Hameluck teaches “enabling a user to test said upgrade version;” (E.g. see col. 1:66 - col. 2:11, e.g. beta evaluation participants). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teaching of Hameluck into the system of D'Alessandro, to obtain usability information of an early version of a software product (upgrade version of a base application) from beta evaluation participants. The modification would have been obvious because one of ordinary skill in the art would have been motivated to get feedbacks from beta evaluation participants to fix some major problem (bug) before a formal release to the public.

As Per claim 2, the rejection of claim 1 is incorporated and further D'Alessandro teaches:

“said quantitative values are assigned in a manner to provide a lower total score for questionnaire answers more favorable to acceptability of said upgrade version.” (E.g. see col. 9:36-64, lowest score).

As Per claim 3, the rejection of claim 2 is incorporated and further D'Alessandro doesn't explicitly disclose “said upgrade version is notified as being acceptable if said total score for said questionnaire is lower than a predetermined number”. However, Official notice is taken is the preference is predetermine to have the lower score the better (E.g. the most acceptable weight is 0 and the least acceptable weight is 1), then if the total score is lower than the predetermined number, it is considered as acceptable.

As Per claim 4, the rejection of claim 2 is incorporated and further D'Alessandro teaches:

“said quantitative values are assigned in a manner to provide a higher total score for questionnaire answers more favorable to acceptability of said upgrade version.” (E.g. see col. 9:36-64, lowest score).

As Per claim 5, the rejection of claim 4 is incorporated and further D'Alessandro doesn't explicitly disclose “said upgrade version is notified as being acceptable if said total score for said questionnaire is higher than a predetermined number”. However, Official notice is taken is the preference is predetermine to have the higher score the better (E.g. the most acceptable weight is

1 and the least acceptable weight is 0), then if the total score is higher than the predetermined number, it is considered as acceptable.

As Per claim 6, the rejection of claim 1 is incorporated and further the combination teaching of D'Alessandro and Hameluck teaches:

“wherein detection of an answer indicating that said user experienced an inoperable condition during a test of said upgrade version is effective to provide a notice of non-acceptability of said upgrade version regardless of answers received for other questions in said questionnaire.” (E.g. see Hameluck, FIG. 3, list box 32 and multi line edit field 33 and associated text, e.g. col. 5:12-37).

As Per claim 7, the rejection of claim 1 is incorporated and further D'Alessandro teaches:

“a favorable total score for answers to said questionnaire is provided by a predetermined minimum number of testers before said upgrade version is indicated as being acceptable..” (E.g. see col. 9:36-64).

As Per Claim 12, is the storage medium claim corresponding to the method claim 1 and is rejected under the same reason set forth in connection of the rejection of claim 1.

As per Claims 13-18, the rejection of claim 12 are incorporated and are rejected under the same reason set forth in connection of the rejection of claims 2-7 respectfully.

As Per Claim 23, is the system claim corresponding to the method claim 1 and is rejected under the same reason set forth in connection of the rejection of claim 1.

As per Claims 24-28, the rejection of claim 23 are incorporated and are rejected under the same reason set forth in connection of the rejection of claims 2-7 respectfully.

4. Claims 8-11, 19-22 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over D'Alessandro US Patent No. 6,556,974 in view of Hameluck and further in view of Yamasaki, US Patent No. 5,699,517.

As Per claim 8, the rejection of claim 1 is incorporated and further the combination teaching of D'Alessandro and Hameluck doesn't explicitly disclose detecting said indication of acceptability; and automatically sending a predetermined message in response to said detecting. However, Yamasaki teaches "detecting said indication of acceptability and automatically sending a predetermined message in response to said detecting" (E.g. see col. 2:31-52). The Examiner interprets the "not lower than a threshold value" as "indication of acceptability" and the detecting is inherent when a message is sent. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teaching of Yamasaki into the system of D'Alessandro and Hameluck, to send a message in response to detection of acceptability. The modification would have been obvious because one of ordinary skill in the art would have been motivated to inform the application developer whether the acceptance is reached or not.

As Per claim 9, the rejection of claim 8 is incorporated and further Official Notice is taken that "said predetermined message is sent by email" is known in the internet environment. People with an email account are easy to be reached if they have access to the internet.

As Per claim 10, the rejection of claim 8 is incorporated and further Official Notice is taken that people can use computer device with a valid MAC or IP address to send or receive email.

As Per claim 11, the rejection of claim 8 is incorporated and further Official Notice is taken that a wireless device like cell phone with capability of send or receive email can read the email.

As per Claims 19-22, the rejection of claim 12 are incorporated and are rejected under the same reason set forth in connection of the rejection of claims 8-11 respectfully.

As Per Claim 23, is the system claim corresponding to the method claim 1 and is rejected under the same reason set forth in connection of the rejection of claim 1.

As per Claim 29, the rejection of claim 23 is incorporated and is rejected under the same reason set forth in connection of the rejection of claim 8.

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Conclusion

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kuo-Liang J Tang whose telephone number is 703-305-4866.

The examiner can normally be reached on M-F 8:30 to 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tuan Q Dam can be reached on 703-305-4552.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

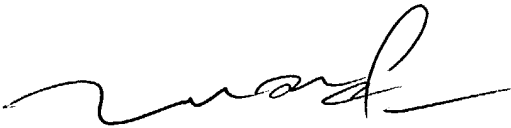
Washington, D.C. 20231

or faxed to:

(703) 872-9306.

Kuo-Liang J. Tang

Software Engineer Patent Examiner


TUAN DAM
SUPERVISORY PATENT EXAMINER